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09/600,879	08/14/2000	Wolfgang Schmutz		8333
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**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES.**

Application Number: 09/600,879
Filing Date: August 14, 2000
Appellant(s): SCHMUTZ ET AL.

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GROUP 3600

Janik Marcovici
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed 8/11/04.

(1) Real Party in Interest

A statement identifying the real party in interest is contained in the brief.

(2) *Related Appeals and Interferences*

A statement indicating that there are no related appeals and interferences which will directly affect or be directly affected by or have a bearing on the decision in the pending appeal is contained in the brief.

(3) *Status of Claims*

The statement of the status of the claims contained in the brief is incorrect. A correct statement of the status of the claims is as follows:

Claims 22-27, 30-34, and 37 are rejected.

Claims 28, 29, and 42 are objected to. In view of appellant's arguments, the rejection of these claims is withdrawn. These claims would be allowable if rewritten in independent form including all limitations of the base claim and any intervening claims.

Claims 35, 36, and 38-40 are allowed.

Claim 42 is canceled.

(4) *Status of Amendments After Final*

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

(5) *Summary of Invention*

The summary of invention contained in the brief is correct.

(6) *Issues*

The appellant's statement of the issues in the brief is substantially correct. The changes are as follows:

Whether or not claims 28, 29, and 41 are unpatentable over Bonora et al is not an issue, as the rejection thereof has been withdrawn.

Whether or not claim 42 is unpatentable is not an issue, as it has been canceled.

Whether or not claims 30-34 and 37 are unpatentable over Bonora et al in view of Bacchi et al is an issue, even though appellant is not arguing these claims separately.

(7) *Grouping of Claims*

Appellant's brief includes a statement that claims (22, 23, 26, 27, 30-34, and 37), (24, 25), (28, 29), and (41) do not stand or fall together and provides reasons as set forth in 37 CFR 1.192(c)(7) and (c)(8).

(8) *ClaimsAppealed*

A substantially correct copy of appealed claims 22-42 appears on pages 14-19 of the Appendix to the appellant's brief. The minor errors are as follows: claim 42 has been canceled.

(9) *Prior Art of Record*

6,220,808	Bonora et al	4-2001
6,138,721	Bonora et al	10-2000
5,538,385	Bacchi et al	7-1996

(10) *Grounds of Rejection*

The following ground(s) of rejection are applicable to the appealed claims:

Claims 22-27 are rejected under 35 U.S.C. 102(e). This rejection is set forth in a prior Office Action, paper #20, mailed on 12/08/03.

Claims 30-34 and 37 are rejected under 35 U.S.C. 103(a). This rejection is set forth in a prior Office Action, paper #20, mailed on 12/08/03.

(11) Response to Argument

Appellant argues that Bonora et al (US 6,220,808) fails to show an embodiment wherein both the adaptor plate 27 is adjustable relative to the clean room 20 and the lock device 24 is releasably fastened to the adaptor plate. Appellant asserts (beginning on page 5, line 3) that Bonora teaches an embodiment wherein the adaptor plate is part of a particular load port and concludes that such an adaptor plate is not releasably fastened to the load port. However, an adaptor plate, in general, is used to attach two otherwise incompatible objects, in this case the load port and the clean room (via the BOLTS interface 22). The purpose of the adaptor plate would be defeated if the load port was permanently attached thereto, because it would not allow other load ports to ever be used therewith. Thus, even though the attachment is not explicitly shown, it is considered inherent that the load port (lock device) would be releasably attached to the adaptor plate.

On the other hand, appellant argues (beginning on page 6, line 14) that in the embodiment where the adaptor plate is part of the BOLTS interface, the adaptor plate would be fixed to the clean room 20, and thus the load port itself would be adjustable relative to the clean room. Appellant then concludes that since the load port is adjustable relative to the clean room (and to the adaptor plate) there would be no reason for the adaptor plate to be separately adjustable relative to the clean room. While it may be logical to conclude that the adaptor plate would not need to be

separately adjustable in such a situation, the flaw in applicant's reasoning is that it is simply circular logic. There is no valid reason to make the initial underlying assumption that the adaptor plate would be fixed. Bonora certainly does not show or suggest that the "tilt and go" interface 25 would ever be positioned anywhere other than between the BOLTS interface and the adaptor plate, as shown in figure 1A, so there is no reason to assume that it would be positioned between the load port and the adaptor plate instead, as appellant has done in page 6, lines 21-24. The Bonora '721 reference that is incorporated by reference and to which appellant asserts teaches attaching the "tilt and go" interface directly to the load port does not have an adaptor plate and thus this conclusion is merely speculative. Since Bonora '808 shows the "tilt and go" interface only between the BOLTS interface and the adaptor plate, there is no reason to conclude that it would instead be attached to the load port.

Appellant argues re claim 24 that Bonora fails to disclose two height adjustable forcing screws. However, as previously noted, col. 5 lines 19-29 of the referenced Bonora '721 patent disclose that more than one ball joint could be provided. As for appellant's assertion that the ball joint is not a forcing screw because it does not force adjustment, the claim contains no language limiting the forcing screw for use an adjustment device. The ball joint, as admitted by appellant, is height adjustable, and therefore is considered a "forcing screw", as broadly claimed. Since there could be more than one, and thus inherently, two spaced apart ball joints, the claim is anticipated.

As noted above, appellants arguments concerning claims 28, 29, and 41 are persuasive and the rejection thereof is withdrawn.

As appellant has made no arguments concerning claims 30-34 and 37, the rejection of these claims is believed valid for the reasons set forth in the final rejection. For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

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jwk
October 25, 2004

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